

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LATRELL ADAMS

PLAINTIFF

VS.

CIVIL ACTION NO. 5:08cv154(DCB)(MTP)

JACQUELINE BANKS, SANDRA JACKSON,
AND BRYAN SHUCKROW

DEFENDANTS

ORDER

This cause is before the Court on the plaintiff Latrell Adams' Motion Asking Court to Take Judicial Notice of Plaintiff's Evidence (**docket entry 251**), and Modified Request for Judicial Notice (**docket entry 290**). Having carefully considered the motion and the defendants' response, as well as the modified request, and being fully advised in the premises, the Court finds as follows:

In his motion, the plaintiff requests that the Court take judicial notice of several exhibits he intends to use at trial. Rule 201 of the Federal Rules of Evidence provides that the Court may take judicial notice of adjudicative facts

not subject to reasonable dispute in that [they are] either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

Fed.R.Evi. 201(b). It has been noted by several courts in this Circuit that it is appropriate to take judicial notice of the United States Surgeon General's Report of June 2006, which catalogues and analyses various scientific findings regarding exposure to secondhand smoke. See Brooks v. Meniffee, 2010 WL

774079 *5 (W.D. La. March 4, 2010); Murrell v. Casterline, 307 F.App'x 778, 779 (5th Cir. 2008); Hicks v. Corrections Corporation of America, 2009 WL 2969768 *6-7 (W.D. La. Sept. 11, 2009); Sivori v. Epps, 2009 WL 799463 *7 (S.D. Miss. March 24, 2009); Folse v. Jones, 2008 WL 4909543 *8-9 (W.D. La. Sept. 11, 2008).

The Court will afford the parties an opportunity to be heard as to the propriety of taking judicial notice and the relevant factual findings of the report, as provided in Fed.R.Evi. 201(e). Accordingly,

IT IS HEREBY ORDERED that the plaintiff's Motion Asking Court to Take Judicial Notice of Plaintiff's Evidence (**docket entry 251**) and Modified Request for Judicial Notice (**docket entry 290**) are GRANTED IN PART AND DENIED IN PART as follows:

The plaintiff shall be allowed to offer factual findings of the United States Surgeon General's Report of June 2006 for the purpose of determining his request that the Court take judicial notice thereof, and the defendants shall be allowed to dispute the Surgeon General's report and conclusions pursuant to the procedures set forth in Fed.R.Evi. 201. The plaintiff has failed to show any grounds for taking judicial notice of the remaining exhibits.

SO ORDERED, this the 4th day of June, 2010.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE